

COPY ORIGINAL

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MILLER MEDIA GROUP  
918 East Park, PO Box 169  
Taylorville, IL 62568-0169

RECEIVED

APR 27 2006

Federal Communications Commission  
Office of Secretary

April 26, 2006

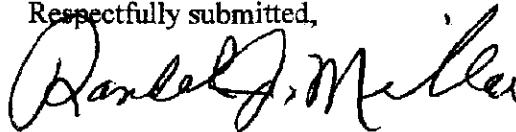
Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: Petition to Allow FM Translator Licensees  
to Locally Originate Programming**

Dear Ms. Dortch:

On behalf of Miller Communications, Inc., Kaskaskia Broadcasting, Inc., and Virden Broadcasting Corp., enclosed for filing are an original and four copies of a Petition for Rulemaking seeking amendments to the Commission's rules governing local origination of translator programming.

Respectfully submitted,



Randal J. Miller

No. of Copies rec'd 074  
List ABCDE  
MB 06-7

ORIGINAL

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

RECEIVED

APR 27 2006

Federal Communications Commission  
Office of Secretary

In the Matter of

Amendment of Sections 74.1201, 74.1231  
and 74.1232 of the Commission's Rules

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To: The Commission

**PETITION FOR RULEMAKING**

Miller Communications, Inc., the licensee of WTIM-FM Taylorville, Illinois and WMKR(FM) Pana, Illinois; Kaskaskia Broadcasting, Inc., the licensee of WRAN(FM) Tower Hill, Illinois; and Virden Broadcasting Corp., licensee of WKEI(AM) and WYEC(FM), Kewanee, Illinois, WJRE (FM) Galva, Illinois, and WGEN (AM) Geneseo, Illinois (collectively, "Petitioners"), hereby seek the commencement of a rulemaking proceeding which will culminate in a change in the Commission's FM translator rules to allow for an FM translator licensee to locally originate programming.<sup>1</sup> In support of this Petition for Rulemaking, the following is submitted:

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<sup>1</sup> Local origination of programming is defined for the purposes of this Petition for Rulemaking as any programming originated from a studio fulfilling the Commission's policies regarding radio broadcast stations main studios, provided such studio from which the programming is originating is no further distant than twenty-five miles from the subject FM translator station transmitter site. See e.g. *Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, 2 FCC Rcd 3215, 3217-18 (1987), clarified 3 FCC Rcd 5024, 5026 (1988) and *Jones Eastern of the Outer Banks, Inc.*, 6 FCC Rcd 3615, 3616 (1991), clarified 7 FCC Rcd 6800 (1992).

1. The Commission has almost always put the goal of local service in the forefront of all of its decisions over the many decades<sup>2</sup>. More than thirty-six years ago, the Commission, in adopting FM translator rules that were similar to the then TV translator rules, made a decision that “FM translators may not, however, be used by FM station licensees as a competitive means to expand a primary station’s service area.”<sup>3</sup> This decision with respect to FM translators, etched in stone so many years ago and long before the FM band was the dominant radio medium, had the dual effect of (1) limiting competition to existing FM stations from out-of-market FM stations, and perniciously, (2) limiting local programming as the FM translator rules were based upon the then existing TV translator rules. In a 1990 Report and Order, the FM translator rules were further tightened to serve the insidious purpose recited above: to address the “possible competitive impact” that translators could have on FM broadcast stations.<sup>4</sup>

2. The 1990 FM translator Report and Order is replete with references to limiting competition to FM stations and protecting FM stations from competition. The Commission noted the need to clarify and amend its FM translator rules “in order to insure that FM radio broadcast stations are not adversely affected by translator operations”<sup>5</sup> and finding that allowing broadcasters in smaller markets to gain access to “the attractive advertising revenues of larger markets ... would detrimentally affect the competitive balance between broadcast stations and translator facilities by redistributing revenue away from broadcast stations, and thus, potentially limiting primary radio service

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<sup>2</sup> With respect to TV translators, for instance, the Commission affirmed that “[l]ocal programming usually has been an important service objective in the broadcast services”. *See An Inquiry into the Future Role of Low Power Television Broadcasting*, 51 RR 2d 476 (1982) at par. 12.

<sup>3</sup> *See Amendment of Part 74 of the Commission’s Rules*, 20 RR2d 1538 (1970) at par. 6.

<sup>4</sup> *See Amendment of Part 74 of the Commission’s Rule*, 5 FCC Rcd 7212 (1990) at par. 2.

<sup>5</sup> *See Amendment of Part 74 of the Commission’s Rule*, 5 FCC Rcd 7212 (1990) at par. 5.

to the public.”<sup>6</sup> In other words, the Commission set out to protect FM broadcasters from possible competition.

3. This decision by the Commission to protect FM broadcasters from possible competition by limiting FM translators to only re-broadcasts of FM stations, and then only under severely constricted circumstances, has engendered perhaps what is now the most egregious under-use of broadcast spectrum now existing. There are now thousands of FM translator stations authorized, and many more thousands of FM translator applications awaiting FCC action. The spectrum represented by these authorizations and potential authorizations could be used for a variety of different programming but for the restrictive FM translator rules now in effect.

4. The restrictive programming rules put into place on FM translators should be compared with the alternative approach taken by the Commission in 1982 for TV translators. The Commission in 1982 allowed TV translators to originate local programming in the interest of TV translators providing further local service. The Commission concluded that “the low power [TV] service ... is likely to provide program service that is responsive to public demand without the necessity of regulatory intervention by the Commission.”<sup>7</sup> In other words, in 1982 the Commission allowed TV translators to originate programming without restriction, reaching a conclusion opposite of that reached regarding FM translators. Remarkably, there was no discussion in either the TV translator proceedings, or in the various FM translator proceedings, why there

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<sup>6</sup> See *Amendment of Part 74 of the Commission's Rule*, 5 FCC Rcd 7212 (1990) at par. 31.

<sup>7</sup> See *An Inquiry into the Future of Low Power Television Broadcasting*, 51 RR 2d 476 (1982) at par. 15.

should be a distinction between the programming rules for TV translators and for FM translators.

5. The Commission has long encouraged new avenues of local programming, whether it be broadcast television or broadcast radio. This is why the Petitioners are asking for this rule change to allow for local origination of programming on FM translators.<sup>8</sup> Petitioners, along with many others, desire to provide additional programming service to their communities, and have the means to either acquire an FM translator, or to contract with an FM translator licensee, to provide such programming.

6. Petitioners have a long history of local service to the communities they serve. Petitioners envision using the newly allowed FM translator programming to provide additional community service to Taylorville, Illinois residents such as live broadcasts of Taylorville City Council meetings, and the broadcast of additional high school games when other stations are already broadcasting other high school games. Petitioners would also envision providing different varieties of music programming that they cannot now provide on their full-power stations. Additionally, the proposed rule changes will allow local churches to extend their ministry by broadcasting programs.

7. The proposed rule changes will complement, rather than detract, from the Commission's emphasis on IBOC and the probability that multi-channel broadcasting will be authorized for all FM broadcast stations. There are now few radios capable of receiving multi-channel IBOC broadcasts. The state of broadcasting and the public

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<sup>8</sup> See Footnote 1. It should be noted that Petitioners are not asking for no programming restrictions on FM translators where, for instance, a satellite signal could simply be beamed down to an FM translator facility. Rather, Petitioners are asking for the reasonable requirement which is aimed at encouraging local programming, requiring that programming no matter where produced originates from a main studio location within twenty-five miles of the subject FM translator transmitter site. Moreover, Petitioners acknowledge that translators will continue to operate on a secondary basis and, therefore, will not impair the proliferation of full-power FM stations.

interest will benefit from additional programming outlets, whether those programming outlets be 2nd or additional channels on full-service FM stations, or those programming outlets be FM translators with local origination of programming. Indeed, the Commission's contemplation of authorizing 2nd and additional channels for IBOC broadcasts validates the Commission's emphasis upon providing as many additional programming outlets as possible to communities.<sup>9</sup>

8. As noted by the attached letters, Petitioners' rulemaking request is supported by many governmental and civic leaders in their community. The attached letters refer to a request for a "waiver". Petitioners may in the future also file a request for a waiver for permission to commence local origination of programming on a particular FM translator. It was with this intention in mind that these letters were written as the letter writers are concerned not with the state of broadcasting in general, but rather, with the state of radio broadcasting in their particular community.

9. Indeed, when reviewing the attached letters, one would be hard-pressed to imagine governmental and civic leaders writing letters asking that radio stations in their community be restricted from running locally originated programming. That fact alone – that governmental and civic leaders in a community would NEVER ask that a radio station be restricted from running locally originated programming – is perhaps the most compelling public interest argument in favor of the rule changes requested by Petitioners.

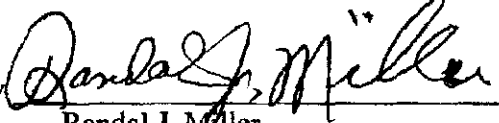
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<sup>9</sup> Also to be noted is that terrestrial radio now faces competition from satellite radio broadcasters, each with over 100 channels. The only way that terrestrial radio can compete is to offer listeners competitive programming.

WHEREFORE, for the reasons above, Petitioners request that the Commission initiate a rulemaking proceeding looking toward an amendment to its FM translator rules to allow for locally originated programming on FM translators.

Respectfully submitted,

**MILLER COMMUNICATIONS, INC.  
KASKASKIA BROADCASTING, INC.  
VIRDEN BROADCASTING CORP.**

By   
Randal J. Miller  
President

Miller Media Group  
918 East Park  
P.O. Box 169  
Taylorville, IL 62568  
(217) 824-3395

April 26, 2006

## ATTACHMENTS



*William R. Harryman*

*725 Glacier Drive*

*Taylorville, Illinois 62568*

725 Glacier Drive

Taylorville, IL 62568

February 17<sup>th</sup>, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

We support the request for the waiver, in order for the Taylorville, IL community to receive further local programming on the radio.

We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

*William R. Harryman*

*Frank A. Patino*  
*320 West Franklin Street*  
*Taylorville, IL 62568*

Federal Communications Commission  
Washington, DC

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

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We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank A. Patino', with a stylized flourish at the end.

Frank A. Patino



FIRST NATIONAL BANK  
IN TAYLORVILLE

Federal Communications Commission  
Washington, DC

Dear Sirs:

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We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

Laurie Estes

# CITY OF TAYLORVILLE

A GREAT PLACE TO LIVE

## OFFICE OF THE MAYOR

Frank Mathon

February 27, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

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We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville, community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,



Frank D. Mathon, Mayor

Market Street Inn Bed & Breakfast  
220 East Market Street  
Taylorville, Illinois 62568-2212  
217-824-7220  
[www.marketstreetinn.com](http://www.marketstreetinn.com)

February 27, 2006

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

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We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,



Joseph P. Hauser, Owner



Myrna Hauser, Owner

**MEYER, AUSTIN & ROMANO, P.C.**

ATTORNEYS AND COUNSELORS AT LAW

DANIEL W. AUSTIN  
JR.- Retired  
ROCCI L. ROMANO

210 S. Washington St.  
P. O. Box 140  
Taylorville, Illinois 62568  
-----  
Phone: (217) 824-4931  
Fax: (217) 824-8892

WILLIAM J. MEYER,  
CLARK H. MILEY (1905-1985)

February 22, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

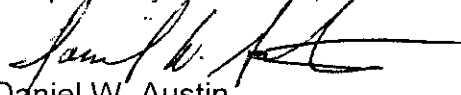
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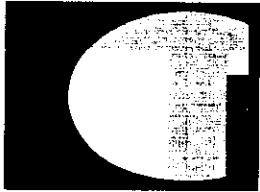
We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

  
Daniel W. Austin

DWA:fer



COMPUTER  
TECHNIQUES

1100 Sportsman Drive  
PO Box 6242  
Taylorville, IL 62568

Toll Free: (866) 2-BUYCTI  
Phone: (217) 824-6398  
Fax: (217) 824-5526  
[www.ctitech.com](http://www.ctitech.com)

Federal Communications Commission  
Washington, DC

Monday, February 20, 2006

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

We support the request for the waiver, in order for the Taylorville, IL community to receive further local programming on the radio.

We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

Billy J. Williams  
President



UNIVERSITY OF ILLINOIS  
EXTENSION

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February 21, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

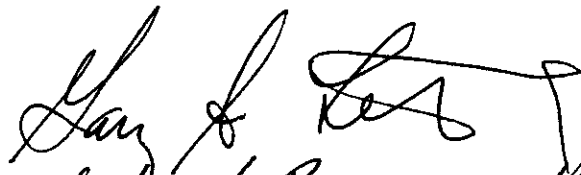
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We support the request for the waiver, in order for the Taylorville, IL community to receive further local programming on the radio.

We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

  
Gary A. Lester  
Natural Resources Management



Federal Communications Commission  
Washington, DC

2/19/2006

Dear Sirs:

I understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

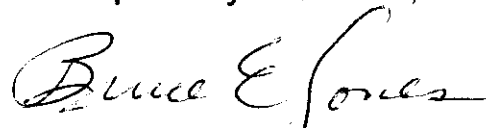
I support the request for the waiver, in order for the Taylorville, IL community to receive further local programming on the radio.

I believe that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

As a member of local government in our community I see the many advantages to granting the request as presented to me by Miller Communications. We have a large population of seniors in Taylorville who cannot make it to our city council meetings but would enjoy being able to hear them on the radio. We are a growing city and people here like to have a variety of local programming to stay informed.

I would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bruce E. Jones".

Bruce E. Jones  
Ward 3 Alderman  
City of Taylorville

February 20, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

We support the request for the waiver, in order for the Taylorville, IL community to receive further local programming on the radio.

We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl & Beth", written in a cursive, flowing style.

**Carl and Beth Niemann**  
**11 Laurel Court**  
**Taylorville, IL 62568**



217-824-2183  
2227 W. SPRESSER  
TAYLORVILLE, IL 62568

February 20, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

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We would ask that the FCC to grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

Jason Lilly



5001 Lake Land Blvd.  
Mattoon, Illinois 61938-9366  
(217) 234-5222  
www.lakelandcollege.edu

**Chair**  
Mike Sullivan

**Vice Chair**  
Doris Reynolds

**Secretary**  
James Shaffer

**Trustees**  
Leland Glazebrook

Anne Kabbes

Kent Metzger

Marianne Morgan

**Student Trustee**  
Leif Wildman

**President**  
Robert K. Luther, Ph.D.

February 20, 2006

Federal Communications Commission  
Washington, DC

Dear Sirs:

It is my understanding that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois. I support the request for the waiver, in order for the Taylorville, Illinois community to receive further local programming on the radio.

I believe that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to the Taylorville community and will enhance the town and its economic growth.

On behalf of the Board of Trustees at Lake Land College and as a member of the Christian County Economic Development Corporation, I ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

Robert K. Luther, Ph.D.  
President

RKL/be

# Fred Peters Financial Group, Inc.



*We Serve Your Needs!*

Fred P. Peters, CLU, ChFC, AEP

1001 North Cheney Street  
Taylorville, IL 62568  
Office (217) 287-2244  
Toll Free (800) 767-2192; Fax (217) 824-2882

February 20, 2006

Federal Communications Commission  
Washington, D.C.

RE: Miller Communications Waiver Request

Dear Sirs:

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois. We support the request for the waiver, in order for the Taylorville, Illinois community to receive further programming on the radio.

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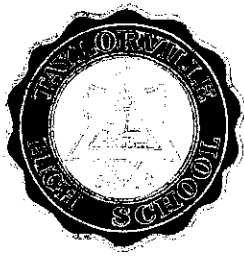
We would ask that the FCC grant Miller Communications, Incorporated's request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Peters', written over a horizontal line.

Fred P. Peters, CLU, ChFC, AEP  
President

FPP/gp



# Taylorville Senior High School

## COMMUNITY UNIT DISTRICT 3

PHONE 217-824-2268

815 SPRINGFIELD ROAD

TAYLORVILLE, ILLINOIS 62568

Thomas Campbell  
Principal

Matthew Hutchison  
Assistant Principal

Michael Curry  
Assistant Principal

Paul Held  
Dean/Athletic Director

Federal Communications Commission  
Washington, DC

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We would ask that the FCC grant Miller Communications, Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul D. Held".

Paul D. Held  
Athletic Director  
Taylorville High School

# SPURLING TITLE, INC.

**Brenda S. Spurling**  
President

**Hartzell Givens**  
Vice President and Counsel

**Gary A. Spurling**  
Secretary / Treasurer

Dear Sirs:

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Respectfully submitted,

  
Gary A. Spurling

February 21, 2006

Federal Communications Commission  
Washington, DC

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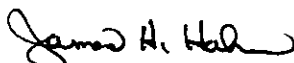
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Respectfully submitted,

  
James H. Hahn  
CEO





*Christian County Emergency Management Agency  
301 W. Franklin  
Taylorville IL, 62568*

Federal Communications Commission  
Washington, DC

2/20/06

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Respectfully submitted,

Michael Crews  
Christian County Emergency Manager



Dear Sirs:

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dick Adams".

Dick Adams  
Chairman  
Christian County Economic Development Corporation  
108 W. Adams  
Taylorville, Illinois 62568  
217/638-5032 (P)  
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tccedc1@consolidated.net



# St. Vincent Memorial Hospital

*A Memorial affiliate*

February 20, 2006

Dear Sirs,

We understand that Miller Communications, Inc. is filing a waiver request to allow it to originate local programming on its FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

We support the request for the waiver, in order for the Taylorville, IL community to receive further local programming on the radio.

We think that using W228BH to broadcast such local events as live broadcasts of government meetings, additional coverage of high school sports broadcasts, and the opportunity for local churches to extend their ministry on Sunday mornings, all are important to our Taylorville community and will enhance our town and its economic growth.

We would ask that the FCC grant Miller Communications Inc.'s request for a waiver to allow it to originate local programming on FM translator W228BH on 93.5 MHz in Taylorville, Illinois.

Respectfully submitted,

Daniel J. Raab, FACHE  
President & CEO